

Notice of Allowability

Application No.

10/707,501

Examiner

Melody M. Burch

Applicant(s)

CHEN ET AL.

Art Unit

3683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 9/1/05.
2. ☒ The allowed claim(s) is/are 1-11,13-15,17-23 and 25-34.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date 9/1/05.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Justin H. Purcell on 9/22/05.

The application has been amended as follows:

- In line 2 from the bottom of claim 1 the phrase "wherein movement" has been changed to --wherein said movement-- to specifically refer back to the movement of the friction component from the first state to the second state recited in lines 3-4 from the bottom of claim 1;
- The last four lines of claim 23 have been deleted and replaced with the following phrase: --engaging a first stage pre-charge wherein a friction component is positioned a first distance from a wheel rotor in response to a high threat of collision prediction; and engaging a second stage pre-charge wherein the friction component is positioned a second distance from the wheel rotor closer than the first distance and short of engaging the brakes as a function of a high threat of collision and a signal indicating that a throttle pedal has been released.--; in order to clearly set forth the difference in placement of the friction member between the

first and second pre-charging stages in a similar manner as set forth in claim 15;

- Claim 24 has been cancelled;
- In line 2 of claim 25 the phrase "said second position to said first position" has been changed to --said second distance to said first distance-- in order to use terms which have proper antecedent basis.

2. The following changes to the drawings have been approved by the examiner and agreed upon by applicant: figures 1A-1C have been revised as shown in the accompanying marked up version of the drawings to include the different placements of the friction component 35 with respect to the wheel rotor to avoid new matter issues. In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

3. The following is an examiner's statement of reasons for allowance: With regards to independent claim 1, Examiner would maintain her position that Reith et al. modified by Igaki et al. teaches halting *a* movement of the friction component of Reith et al. through throttle pedal activation since Igaki et al. teach halting through throttle pedal activation a brake application since a brake application is a movement of a friction component. Claim 1, however, has been amended to recite that "*said* movement of the friction component is halted through throttle pedal activation." The use of the word "said" preceding the word "movement" now prevents the use of a general notion of movement and requires one to look to line 4 from the bottom of claim 1 to determine the

Art Unit: 3683

specific nature of the movement. Line 4 from the bottom of claim 1 recites that the movement halted through throttle pedal activation is the movement of the friction component from the first state to the second state. In other words, the throttle pedal activation stops a pre-charging motion. Since Igaki et al. only teaches halting brake application movement in a conventional stability control apparatus, it is agreed that one would not look to the teachings of Igaki et al. to halt pre-charging movement in Reith et al. without using Applicant's invention as a blueprint. Accordingly, claim 1 is allowable over the prior art of record.

Similarly, with regards to claims 15 and 23, the Maekawa reference is used to teach the use of achieving a state of friction component movement based on a signal indicating that a throttle pedal has been released. The state of movement of the friction component on which the throttle pedal release signal is based in the instant application is the movement of the friction component into a second distance from a wheel rotor (a second pre-charging operation) just short of engaging the brakes. On the other hand, the state of movement of the friction component on which the throttle pedal release signal is based in the Maekawa reference is the movement of the friction component into a brake application position. Therefore, Maekawa teaches away from the claimed invention which strives to maintain a pre-charge of the brakes and not an actual braking condition of the brakes under the recited conditions. Accordingly, claims 15 and 23 are allowable over the prior art of record. The dependent claims are allowable due to their dependency from one of claims 1, 15 and 23.

Art Unit: 3683

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles A. Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mmmb
mmb

September 23, 2005

Melody M. Burch
9/23/05

Replacement Sheet Application No. 10/707,501

